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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/672,138

09/26/2003

Jeffrey V. Bamber

6104

7590

08/04/2004

Jeffrey V. Bamber
5023 Village Drive
Cincinnati, OH 45244

EXAMINER

WELCH, GARY L

ART UNIT

PAPER NUMBER

3765

DATE MAILED: 08/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/672,138

Applicant(s)

BAMBER, JEFFREY V.

Examiner

Gary L. Welch

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) 4-6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-3, drawn to a sports glove having a breathable fastener, classified in class 2, subclass 161.1.
 - II. Claims 4-5, drawn to sports glove having a storage container attached thereto, classified in class 2, subclass 159.
 - III. Claim 6, drawn to a sports glove having a patch of extensible material, classified in class 2, subclass 160.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I-III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions because the claims recited in Groups I-III have different modes of operation. The claims directed to Group I are concerned with a breathable fastener for securing the glove to a user's hand while allowing the glove and hand to breath thereby ensuring comfort and fit. The claims directed to Group II are concerned with a glove having a container attached thereto for storing the glove after use. The claim directed to Group III is concerned with snugness and fit of the glove about a person's hand and not for securing the glove to a hand and not for storing a glove. Therefore, the inventions of Groups I-III are not related.

3. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Groups II and III, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Mr. Jeffrey Bamber on 22 July 2004 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-3. Affirmation of this election must be made by applicant in replying to this Office action. Claims 4-6 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feuerhake (U.S. 5,704,065) in view of Yamamoto et al. (U.S. 5,373,712).

Feuerhake discloses a sports glove having a fastener comprised of hook and loops.

However, Feuerhake does not disclose that the fastener is breathable.

Yamamoto et al. teaches an air permeable fastener. The air permeable fastener is comprised of pile loops and hooks (Col. 2, lines 8-32). Therefore, the air permeable fastener of Yamamoto et al. is equivalent to the fastener of Feuerhake

with regard to its securing capability with the added benefit of it being air permeable.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the hook and loop fastener of Feuerhake with the air permeable fastener taught by Yamamoto et al. since the function of securing is equivalent with the added benefit of air permeability so as to allow air flow to reach the user's hand when the glove is worn.

With regard to claims 2-3, the invention is disclosed above.


Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fujisawa et al. '576 and Akeno '170 disclose a fastener having vent holes therein.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary L. Welch whose telephone number is (703) 305-0451. The examiner can normally be reached on Mon-Fri 5:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gary L. Welch
Primary Examiner
Art Unit 3765

glw